THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.28139 of_1998

Dated:09.10.2006

Between
P.Pattabhi Rami Reddy

.....Petitioner

and

1.Prakasam District Co-op Central Bank Ltd., Prakasam District, Ongole Rep., by its General Manager and others.

...Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.28139 of 1998

ORDER:

This writ petition is filed seeking a Mandamus to declare the auction notice dated 28-08-1998 in application No.85/95-96 issued by the 3rd respondent as arbitrary and illegal and consequently to direct the 2nd and 3rd respondents to follow the due process of law before taking action for recovery of the amount as contemplated under Section 104 of the A.P. Cooperative Societies Act (for short 'the Act') read with Rule 53 of the A.P. Cooperative Societies Rules.

It seems that the petitioner obtained loan for purchase of tractors from the 1st respondent bank. When he failed to pay the instalments and arrears were accumulated, the respondents obtained a certificate under Section 104 of the Act and issued the impugned auction notice proposing to auction the properties of the

petitioner for realization of the arrears due to the bank.

The only complaint of the petitioner seems to be that no notice of any kind was issued to him before passing the proceedings under Section 104 of the Act.

A detailed counter affidavit has been filed by the respondents asserting that as on 01.04.1984 the total amount due from the petitioner along with interest was Rs.24,020-60 ps and the balance due from the petitioner as on 31.1.1994 was Rs.52,650/-. The 2nd respondent has given authorization *vide* letter No.2(8)/IDDI/R2/94-95 dated 21.7.1994 to bring the hypothecated lands for sale and an Execution Petition was filed for an amount of Rs.52,650/-. Therefore, the allegation that the petitioner has discharged the entire loan amount is absolutely false. Further, it is asserted that the registered notice issued by the Branch Manager, Addanki on 2.12.1993 and further notice issued by the 3rd respondent, were received by the petitioner.

In view of the above, I am of the opinion that the respondents have issued notice before passing the orders under Section 104 of the Act. There are no merits in the writ petition and the same is liable to be

dismissed.

Accordingly, the writ petiton is dismissed. No costs.

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09-10-2006

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